

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL D. BRYANT,

Plaintiff,

v.

NORTHERN NEVADA CORRECTION
CENTER CULINARY, *et al.*,

Defendants.

Case No. 3:20-cv-00187-MMD-WGC

ORDER

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On March 25, 2020, this Court issued an order directing Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full filing fee of \$400 within 60 days from the date of that order. (ECF No. 3 at 2). The 60-day period has now expired, and Plaintiff has not filed an application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded to the Court's order. The Court will therefore dismiss this case.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*,

1 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court
2 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for
3 lack of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey
5 a court order, or failure to comply with local rules, the court must consider several factors:
6 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
7 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
8 disposition of cases on their merits; and (5) the availability of less drastic alternatives. See
9 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
10 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 Here, the Court finds that the first two factors weigh in favor of dismissal. The third
12 factor—risk of prejudice to Defendants—also weighs in favor of dismissal, since a
13 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
14 ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522,
15 524 (9th Cir. 1976). The fourth factor—public policy favoring disposition of cases on their
16 merits—is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,
17 a court's warning to a party that his failure to obey the court's order will result in dismissal
18 satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*,
19 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424.

20 The Court's order requiring Plaintiff to file an application to proceed *in forma*
21 *pauperis* or pay the full filing fee within 60 days expressly stated: "IT IS FURTHER
22 ORDERED that if Plaintiff does not timely comply with this order, dismissal of this action
23 may result." (ECF No. 3 at 2). Thus, Plaintiff had adequate warning that dismissal would
24 result from his noncompliance with the Court's order to file an application to proceed *in*
25 *forma pauperis* or pay the full filing fee within 60 days.

26 It is therefore ordered that this action is dismissed without prejudice based on
27 Plaintiff's failure to file an application to proceed *in forma pauperis* or pay the full filing fee
28 in compliance with this Court's March 25, 2020 order.

1 It is further ordered that the Clerk of the Court will enter judgment accordingly and
2 close this case.

3 DATED THIS 3rd day of June 2020.

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6 MIRANDA M. DU
7 CHIEF UNITED STATES DISTRICT JUDGE
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